

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

FREEDOM FROM RELIGION
FOUNDATION, INC., ANNE NICOL
GAYLOR, ANNIE LAURIE GAYLOR,
PAUL GAYLOR, DAN BARKER,
PHYLLIS ROSE, and JILL DEAN,

Plaintiffs,

v.

PRESIDENT BARACK OBAMA,
WHITE HOUSE PRESS SECRETARY
ROBERT L. GIBBS, WISCONSIN GOVERNOR
JIM DOYLE, and SHIRLEY DOBSON,
CHAIRMAN OF THE NATIONAL DAY
OF PRAYER TASK FORCE,

Defendants.

Case No. 08-CV-588

PLAINTIFFS' RESPONSES TO
STATEMENT OF PROPOSED FINDINGS OF FACT
BY DEFENDANT SHIRLEY DOBSON

The plaintiffs respond to the Proposed Findings of Fact by defendant Shirley Dobson as follows:

1. Plaintiff Freedom from Religion Foundation, Inc. ("FFRF"), is a non-stock corporation comprised of members who are opposed to government endorsement of religion. Amended Complaint, ¶¶ 14 and 5.

Response: No dispute.

2. Plaintiff Anne Nicol Gaylor is a lifetime member and president emeriti of FFRF.

Response: No dispute.

3. Plaintiff Paul Gaylor is a lifetime member and board member of FFRF. Id. at ¶ 8.

Response: No dispute.

4. Plaintiff Annie Laurie Gaylor is a lifetime member and co-president of FFRF. Id. at ¶ 9.

Response: No dispute.

5. Plaintiff Dan Barker is a lifetime member and co-president of FFRF. Id. at ¶ 10.

Response: No dispute.

6. Plaintiff Phyllis Rose is a lifetime member and Secretary of the FFRF Executive Council. Id. at ¶

Response: No dispute.

7. Plaintiff Jill Dean is a lifetime member and a board member of FFRF. Id. at ¶

Response: No dispute.

8. Anne Gaylor claims to have learned about the National Day of Prayer ("NDP") from publicity in the newspapers and television. Plaintiffs Responses to Defendants President Barack Obama and Robert L. Gibbs First Set of Interrogatories ("Plaintiffs Responses to Federal Interrogatories"), 2.

Response: Dispute. Misstates Ms. Gaylor's full answer.

9. Annie Laurie Gaylor claims to have learned about the NDP through her work at FFRF, including from her mother (Anne Gaylor), her own investigations, and from those who called the FFRF's office. Id. at 3.

Response: Dispute. Misstates Ms. Gaylor's full answer.

10. Paul Gaylor claims to have learned about the NDP through the newspapers. Id. at 4.

Response: No dispute.

11. Dan Barker claims to have learned about the NDP through television. Id.

Response: Dispute. Misstates Mr. Barker's full answer.

12. Phyllis Rose claims to have learned about the NDP from FFRF. Id.

Response: No dispute.

13. Jill Dean claims to have learned about the NDP through news accounts. Id.

Response: No dispute.

14. Anne Gaylor claims to have learned about President Bush's 2008 NDP proclamation from her daughter, Annie Laurie Gaylor. Id. at 5.

Response: No dispute.

15. Annie Laurie Gaylor claims to have learned about President Bush's 2008 NDP proclamation from the Task Force's website, which she claims she routinely monitors. Id. at 6.

Response: No dispute, but note that Ms. Gaylor's cited answer references only her first information about the 2008 proclamation.

16. Annie Laurie Gaylor also claims to have signed up for the "Focus on the Family" mailing list and receives regular mailings about the Task Force and the NDP. Id.

Response: Dispute. Misstates Ms. Gaylor's answer.

17. Paul Gaylor claims to have learned about President Bush's 2008 NDP proclamation through his wife. Id.

Response: No dispute.

18. Dan Barker claims to have learned about President Bush's 2008 NDP proclamation by monitoring the Task Force's website and via a telephone call from Annie Laurie Gaylor. Id.

Response: Dispute. Misstates Mr. Barker's full answer.

19. Phyllis Rose claims to have learned about President Bush's 2008 NDP proclamation from the FFRF. Id. at 7.

Response: No dispute.

20. Jill Dean claims to have learned about President Bush's 2008 NDP proclamation as a result of a local Burnett County prayer breakfast controversy. Id.

Response: No dispute.

21. Anne Gaylor claims to have learned about President Obama's 2009 NDP Proclamation from Annie Laurie Gaylor. Id. at 8.

Response: No dispute.

22. Annie Laurie Gaylor claims to have learned about President Obama's 2009 NDP Proclamation from the media and then by monitoring the White House website and the Task Force's website. Id.

Response: No dispute.

23. Paul Gaylor claims to have learned about President Obama's 2009 NDP Proclamation from Anne Gaylor. Id.

Response: No dispute.

24. Dan Barker claims to have learned about President Obama's 2009 NDP Proclamation through the internet news. Id.

Response: No dispute.

25. Phyllis Rose claims to have learned about President Obama's 2009 NDP Proclamation from FFRF. Id.

Response: No dispute.

26. Anne Gaylor claims that she has been injured by the NDP in that it has made her work of separating church and state harder. Id. at 38.

Response: No dispute, but does not fully state Ms. Gaylor's answer.

27. Anne Gaylor also claims that the NDP legislation is a "slap to the face" because she is personally "free from religion." Id.

Response: No dispute.

28. Paul Gaylor claims that he was injured by the NDP in that he is "personally very offended by public prayer." Id. at 40.

Response: Dispute. Misstates Mr. Gaylor's full answer.

29. Annie Laurie Gaylor claims that the 1952 law establishing the NDP has made it difficult for the FFRF to "protect the constitutional principle of the separation between church and state." Id. at 41.

Response: No dispute, but note that this misstates Ms. Gaylor's full answer.

30. Plaintiffs claim to be injured simply by the presidential or gubernatorial requests to pray. Id. at 42.

Response: Dispute. Misstates plaintiffs' full answer.

31. Shirley Dobson is a private person. See Affidavit of Dave Butts, 1. (See Ex. 1 to Bolton Affidavit at 2, 5, 38-39, 40-47.)

Response: No dispute.

32. She is the Chairman for the National Day of Prayer Task Force ("Task Force"). Id.

Response: No dispute.

33. The Task Force is controlled by and run by the National Prayer Committee

("NPC"). Id. at 1-2.

Response: Dispute. Mrs. Dobson is the voice and face of the NDP Task Force (Exh. 123 at 32-33 & 42); she is the Chairman of the Task Force (Exh. 123 at 4); she solicits annual proclamations from presidents and governors (Exh. 14-15, 21-24, 27, and Exh. 123 at 23, 50, 58, 115 & 121); she solicits participation of government officials in NDP Task Force observances (Exh. 25-28, 31, 33-39 and 41-43); she gives direction to Task Force state coordinators (Exh. 17-20); she also selects the Task Force annual theme and supporting scripture (Exh. 123 at 56-57); and she appears at White House and Congressional observances (Exh. 123 at 72, 74 & 76). There is no evidence of the Prayer Commission exercising any authority to run the NDP Task Force on a daily basis. (Ex. 123 at 36-37.)

34. The NPC is made up of eighteen executive council members, and Shirley Dobson is not a member. Id. at 1.

Response: No dispute.

35. Mrs. Dobson serves as Chairman of the Task Force at the direction and control of the NPC. Id. at 2.

Response: Dispute. Mrs. Dobson oversees the annual NDP Task Force observances. (See Response to Proposed Finding No. 2.)

36. The Task Force employs 10 paid staff to carry out its mission. Mrs. Dobson is not a paid staff member. Id.

Response: No dispute.

Dated at Madison, Wisconsin, this 10th day of December, 2009.

/s/ Richard L. Bolton
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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2009, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification electronically to all attorneys of record.

/s/Richard L. Bolton